

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS		DEFENDANTS	
<p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p>		<p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p>	
<p>(c) Attorneys (<i>Firm Name, Address, and Telephone Number</i>)</p>		<p>Attorneys (<i>If Known</i>)</p>	
II. BASIS OF JURISDICTION (<i>Place an "X" in One Box Only</i>)		III. CITIZENSHIP OF PRINCIPAL PARTIES (<i>Place an "X" in One Box for Plaintiff and One Box for Defendant</i>)	
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>		PTF DEF Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4	
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>		Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5	
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6	
IV. NATURE OF SUIT (<i>Place an "X" in One Box Only</i>)			
Click here for: Nature of Suit Code Descriptions.			
CONTRACT		TORTS	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice		
	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		
	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
	PRISONER PETITIONS		
	CIVIL RIGHTS		
	<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		
	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education		
	FORFEITURE/PENALTY		
	BANKRUPTCY		
	OTHER STATUTES		
<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark			
LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act			
SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))			
FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609			
IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions			
<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes			
V. ORIGIN (<i>Place an "X" in One Box Only</i>)			
<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court		<input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (specify) <input type="checkbox"/> 6 Multidistrict Litigation - Transfer <input type="checkbox"/> 8 Multidistrict Litigation - Direct File	
Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>):			
VI. CAUSE OF ACTION		Brief description of cause:	
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ 	
VIII. RELATED CASE(S) IF ANY <i>(See instructions):</i>		CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No JUDGE _____ DOCKET NUMBER _____	
DATE		SIGNATURE OF ATTORNEY OF RECORD	
FOR OFFICE USE ONLY			
RECEIPT #	AMOUNT	APPLYING IFP	JUDGE
			MAG. JUDGE

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____

Address of Defendant: _____

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____

/s/ Robert. J. Cahall, Esq.

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

Esq.

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

- Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: _____

Sign here if applicable

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____

Address of Defendant: _____

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
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| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____

/s/ Robert. J. Cahall, Esq.

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

Esq.

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- 10. Social Security Review Cases
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- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
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- Relief other than monetary damages is sought.

DATE: _____

Sign here if applicable

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

EAST THOMPSON DEVELOPMENT, LLC : CIVIL ACTION

:
:

v.

:
:

:

WESTMINSTER AMERICAN : NO.
INSURANCE COMPANY

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

May 18, 2020
Date

Robert J. Cahall, Esquire
Attorney-at-law

Westminster American Ins. Co.
Attorney for

(215) 972-0161
Telephone

(215) 972-5580
FAX Number

R.Cahall@mccormickpriore.com
E-MAIL

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EAST THOMPSON	:	NOTICE OF REMOVAL OF
DEVELOPMENT, LLC	:	ACTION UNDER 28 U.S.C. §1332(a)(1)
	:	
	:	
v.	:	
	:	
WESTMINSTER AMERICAN	:	
<u>INSURANCE COMPANY</u>	:	NO.

NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant, Westminster American Insurance Company, hereby removes to this Court the state court action described below.

1. Plaintiff, East Thompson Development, LLC, (hereinafter, "Plaintiff"), filed a Complaint against Defendant, Westminster American Insurance Company, (hereinafter, "Westminster"), in the Court of Common Pleas of Philadelphia County, Pennsylvania, on or about April 17, 2020. *See* Plaintiff's Complaint, a true and correct copy of which is attached hereto as Exhibit "A."

2. That action has been assigned Case Number CV-2020-0400830 by the Philadelphia County Court of Common Pleas. *See Exhibit "A."*

3. Plaintiff's Complaint was served on Westminster via certified United States Mail under cover of April 17, 2020. *See* Pa.R.C.P. 403.

4. Accordingly, pursuant to 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely filed.

5. The removal statute, 28 U.S.C. § 1441, provides, in pertinent part:

(a) Generally – Except as otherwise expressly provided by Act

of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. § 1441(a).

6. Further, 28 U.S.C. § 1332(a) provides, in pertinent part:

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between –

(1) citizens of different states;

28 U.S.C. § 1332(a).

7. In the Complaint, Plaintiff alleges that Westminster breached its contractual obligation in its failure to provide coverage for property damage to Plaintiff under the subject policy. *See Exhibit “A.”*

8. Plaintiff expressly seeks damages equal to the policy limits of \$505,000 from the Westminster policy that is the subject of this litigation. *See Exhibit “A” ¶ 39.*

9. Further, in addition to the policy limits, Plaintiff seeks punitive damages for alleged bad faith conduct on behalf of Westminster. *See Exhibit “A” at Count III.*

10. Further, Plaintiff alleges that the value of the case is in excess of fifty-thousand dollars compulsory arbitration limits of state Court, without suggesting any liquidated total damages or proof signifying a virtual certainty that damages will not exceed \$75,000. *Id.*

11. As a result, the amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied herein. *See 28 U.S.C. § 1332(a).*

12. Plaintiff has alleged that it is a limited liability company organized in the Commonwealth of Pennsylvania, with its principal place of business located at 633 East

Thompson Street, Philadelphia, Philadelphia County, Pennsylvania, at all times material hereto.

See Exhibit "A" ¶ 1.

13. Although pled as "East Thompson Development," the correct name for plaintiff is "E. Thompson Development, LLC," with a Pennsylvania business entity number of 6633390. Plaintiff's limited liability company contains a single member, Walter Marino, who, upon information and belief, was at all times material hereto a resident of the State of New Jersey with an address of 119 Colony Place, Mount Laurel, New Jersey 08054. *See Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010) ("Accordingly, the citizenship of an LLC is determined by the citizenship of its members.") (citation omitted).

14. Westminster is a Maryland corporation with a primary address at 8890 McDonough Road, Suite 310, Owings Mill, Maryland, and a principal place of business in Owings Mills, Maryland.

15. As a result, the plaintiff and defendant are citizens of New Jersey and Maryland, respectively, and complete diversity of citizenship is present.

16. Accordingly, pursuant to 28 U.S.C. § 1332(a)(1), the United States District Court for the Eastern District of Pennsylvania has jurisdiction over this matter.

17. Therefore, Westminster hereby removes this matter to the United States District Court for the Eastern District of Pennsylvania.

18. Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446(d).

WHEREFORE, Notice is hereby given that this action is removed from the Court of Common Pleas of Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania.

McCORMICK & PRIORE, P.C.

BY: *S/Scott J. Tredwell Esquire*
Scott J. Tredwell, Esquire
Attorney for Defendant,
Westminster American Insurance Company
McCormick & Priore, P.C.
Four Penn Center, Suite 800
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103
(T) 215-972-0161 / (F) 215-972-5580
stredwell@mccormickpriore.com

Dated: May 18, 2020

CERTIFICATE OF SERVICE

I, Scott J. Tredwell, Esquire, attorney for Defendant in the within action, hereby certify that I am duly authorized to make this certification; and that on this date, I did cause a true and correct copy of the foregoing **Notice of Removal** to be forwarded by email to counsel addressed as follows:

Michael J. Burns, Esquire
530 Street Road
Southampton, Pennsylvania 18966
Attorney for Plaintiff

McCORMICK & PRIORE, P.C.

BY: *S/Scott J. Tredwell Esquire*
Scott J. Tredwell, Esquire
Attorney for Defendant,
Westminster American Insurance Company
McCormick & Priore, P.C.
Four Penn Center, Suite 800
1600 John F. Kennedy Blvd.
Philadelphia, Pennsylvania 19103
(T) 215-972-0161 / (F) 215-972-5580
stredwell@mccormickpriore.com

Dated: May 18, 2020